

ESTTA Tracking number: **ESTTA336891**

Filing date: **03/11/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Terri Yenko Gould, Executor		
Entity	Estate and Heirs	Citizenship	Pennsylvania
Address	4662 White Avenue Encino, CA 91316 UNITED STATES		

Correspondence information	George E. Bullwinkel Attorney of Record (Illinois bar member) Attorney 425 Woodside Avenue Hinsdale, IL 60521 UNITED STATES geb@bullwinkel.com Phone:630-214-2273
----------------------------	---

### Registration Subject to Cancellation

Registration No	2049857	Registration date	04/01/1997
Registrant	SUPERCAR COLLECTIBLES LIMITED 11760 JUSTEN CIRCLE-UNIT E MAPLE GROVE, MN 55369 UNITED STATES		

### Goods/Services Subject to Cancellation


Class 028. First Use: 1996/10/22 First Use In Commerce: 1996/10/22  
All goods and services in the class are cancelled, namely: toy cars

### Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14

### Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	930794	Application Date	10/16/1970
Registration Date	03/14/1972	Foreign Priority Date	NONE
Word Mark	YENKO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class U019 (International Class 012). First use: First Use: 1941/00/00 First Use In Commerce: 1965/12/00 SPORTS CARS

Attachments	72373601#TMSN.gif ( 1 page )( bytes ) Pleading.pdf ( 3 pages )(1062314 bytes )
-------------	---

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/George E. Bullwinkel/
Name	George E. Bullwinkel
Date	03/11/2010

1. The petitioner represents the estate and heirs of Donald Frank “Don” Yenke, who until his untimely death in 1987 was the designer and builder of a well-known and respected line of competition and sports vehicles sold under the YENKO name and trademark. Between 1966 and 1981, over 800 high-performance vehicles were manufactured and sold under his direction and control under the YENKO name and mark.

2. At one time, Don Yenke, through his company Yenke Sportscars, Inc., was the owner of U.S. Trademark Registration 0930794, Registered March 14, 1972, for the following YENKO and Design, which registration was not renewed and therefore expired in 1992:



3. However, Don Yenke's name and reputation have remained strong to the present day because of the continued interest and devoted efforts of thousands of automobile enthusiasts, including, but not limited to, members of the Yenke Sportscar Club, a Missouri not-for-profit corporation formed in 1998. In connection with its membership services, the Club enjoys the exclusive use of the YENKO name and mark by virtue of written permission from the Estate and heirs of Don Yenke, which permission states in pertinent part:

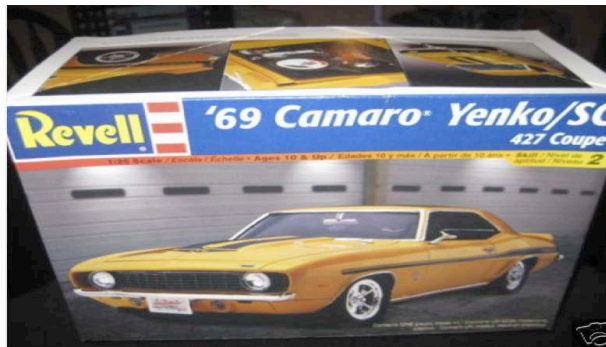
*“[A] national organization needs to be developed to better handle the ever increasing problem of proving the difference between a fake Yenke automobile and the original. It is also vitally important to create a safe-guard for all other Yenke artifacts which help preserve the important history of the Yenke legacy.”*

4. The respondent's predecessor in interest, James Sullivan, (Sullivan) was an individual who, without the knowledge or permission of the Estate and heirs of Don Yenke, claimed ownership of rights in the name and mark YENKO for “toy cars”, and applied for and was issued U.S. Trademark Registration No. 2049857, registered April 1, 1997. USPTO records indicate that this registration was subsequently assigned to the respondent SuperCar Collectibles Ltd. (“SuperCar”) of 508 81<sup>st</sup> Avenue, North Minneapolis, Minnesota 55444, on or about March 15, 1998.

5. SuperCar markets and sells in interstate commerce unauthorized replicas of genuine YENKO automobiles, one of which is pictured below:



6. SuperCar, on information and belief, and without the knowledge or permission of the Estate and heirs, has granted one or more purported licenses to others to use the name and mark YENKO on various products sold in interstate commerce, including but not limited to model reproductions of genuine YENKO automobiles, an example of which is shown below:



7. Other than the limited permission given the Yenko Sportscar Club noted above, the Estate and heirs have never given Sullivan, SuperCar, or anyone else, permission to use the name or mark YENKO for any purpose, or to license it to others.

8. SuperCar's use of the YENKO name and mark, including but not limited to the registration in question, therefore

(a) falsely suggests a connection with the Estate and heirs of Don Yenke, in violation of the Trademark Act section 2(a); and

(b) the marks in question are being used by the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used, in violation of the Trademark Act section 14.

9. For the foregoing reasons, the petitioner Estate of Donald Frank Yenke prays that U.S. Trademark Registration No. 2049857, be canceled, and that it be

granted such other and further relief as may be just.